

PERKINS COIE

RECEIVED  
FEC MAIL CENTER

2016 FEB 29 PM 3: 50

700 13th Street, NW  
Suite 600  
Washington, D.C. 20005-3960

+1.202.654.6200  
+1.202.654.6211  
PerkinsCoie.com

February 29, 2016

Federal Election Commission  
Jeff S. Jordan, Esq., Assistant General Counsel  
Office of Complaints Examination  
and Legal Administration  
999 E. Street, NW  
Washington, DC 20463

Re: MUR 6996

Dear Mr. Jordan:

On behalf of A Whole Lot of People for Grijalva and Maya Castillo, in her official capacity as treasurer (collectively, "the Committee"), I write in response to the Complaint in MUR 6996. The information available to the Committee does not support any inference of embezzlement. For this reason, and because the Committee understands that there is sufficiently compelling evidence to refute the Complaint's factual allegations, the Commission should find no reason to believe any violation occurred.

The Committee is the principal campaign committee of Representative Raúl Grijalva, who represents Arizona's Third District. The complainant worked briefly in early 2015 for the House Committee on Natural Resources, on which Representative Grijalva is the ranking Member. Neither the Committee nor Representative Grijalva knows of receiving any report of embezzlement from the complainant, other than the Complaint itself. Although the complainant says she received a report of embezzlement in January 2015, apparently while she was a House employee, she did not file the Complaint until December 2015, which was eleven months later.

Read closely, the Complaint does not actually allege that any embezzlement occurred. Rather, the Complaint paraphrases two hearsay statements that, if correctly understood and faithfully relayed, suggested merely the *possibility* of embezzlement. The complainant attributes these hearsay statements to a former Committee fundraising consultant. The first hearsay statement was that the consultant "discovered that campaign cash and checks had gone missing ... and that she kept detailed records of her concerns about the activity." The second hearsay statement was that the consultant "noticed multiple inconsistencies and irregularities" made to the Committee's fundraising database, and that when the consultant "raised concerns about the matter, she was blocked from access to the database." The complainant alleges that the consultant's husband, who worked first for Representative Grijalva and later for the Committee on Natural Resources, "confirmed this information."

Brian G. Svoboda  
BSvoboda@perkinscoie.com  
D +1.202.434.1654  
F. +1.202.654.9150

OFFICE OF GENERAL  
COUNSEL

MUR - 1 AM 10:31

RECEIVED  
FEDERAL ELECTION  
COMMISSION

The facts known to the Committee do not confirm and in fact contradict the Complaint's suggestion of potential embezzlement:

*First*, the Committee maintained at the time and continues to maintain internal controls to diminish the risk of any such event. From at least 2012 through 2015, the Committee engaged Evans & Katz LLC, a well-established compliance consulting firm, to review receipts and disbursements for compliance, enter receipts and disbursements into its database, prepare and file its Commission reports, and perform complete reconciliations of the Committee's accounts. In particular, Evans & Katz prepared monthly, four-column reconciliations, to ensure that the Committee's reported figures for cash-on-hand, receipts and disbursements corresponded to the bank activity. The firm also reviewed transactions on a monthly basis to ensure that no unauthorized transactions occurred.

Thus, the Committee complied with the principal elements of the Commission's "safe harbor" for misreporting due to embezzlement: (1) opening all bank accounts in its name and while using its Employer Identification Number; (2) reviewing and reconciling bank statements each month to ensure no unauthorized transactions occurred, and to the disclosure reports before filing to confirm their accuracy; and (3) maintaining no petty cash system.<sup>1</sup> While even "[t]he best internal control system can provide only reasonable, not absolute, assurance" against embezzlement,<sup>2</sup> the Committee took affirmative steps to guard against this possibility.

*Second*, the Committee understands that the allegation is contradicted by direct evidence that has been provided by all of the individuals named in the complaint. The two "sources" of the Complaint's hearsay statements have given declarations to the Commission that contradict the claim that they reported or confirmed potential embezzlement violations, and that provide credible information to rebut the Complaint's allegations. The two individuals who were said to have committed the violations have provided sworn declarations of their own, denying the allegations. As the Commission has held, "a complaint may be dismissed if it consists of factual allegations that are refuted with sufficiently compelling evidence provided in the response to the complaint ..." Statement of Reasons, MUR 4960, *available at* [http://www.fec.gov/members/former\\_members/mason/masonstatement1.htm](http://www.fec.gov/members/former_members/mason/masonstatement1.htm). When the Complaint's hearsay-sourced suggestion is weighed against direct and contrary evidence from the people who have actual information, it becomes clear that the Complaint fails to provide a reasonable basis for further investigation.

The Committee cannot but take seriously any suggestion of embezzlement or misappropriation, whatever its source or credibility. It is committed to stewarding properly the resources its

<sup>1</sup> See Statement of Policy; Safe Harbor for Misreporting Due to Embezzlement, 72 Fed. Reg. 16,695 (2007).

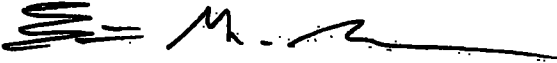
<sup>2</sup> Proposed Internal Control Guidance for Political Committees, Agenda Doc. No. 06-68 (Oct. 16, 2006), *available at* <http://www.fec.gov/agenda/2006/mtgdoc06-68.pdf>.

Jeff S. Jordan, Assistant General Counsel  
February 29, 2016  
Page 3

contributors have lawfully provided and has taken substantial steps toward that end, not least by engaging one of the nation's most reputable political compliance firms to review its transactions, reconcile its accounts and prepare its reports. Still, the totality of the circumstances must lead the Committee to conclude that the particular suggestion here is groundless. These circumstances include: the complainant's brief tenure with the candidate; her eleven-month delay in presenting the allegation (and then only to the Commission); her reliance on hearsay to imply a violation without asserting it outright; and the direct evidence presented to rebut the supposed violation by those having direct knowledge.

Accordingly, Respondents respectfully submit that the Complaint presents no reason to believe that a violation of the Act occurred. We respectfully request the Commission to find accordingly, dismiss the complaint and close the file.

Very truly yours,



Brian G. Svoboda  
Counsel to A Whole Lot of People for Grijalva and Maya Castillo, in her official capacity as treasurer